

Amendment F  
U.S. appl. no. 10/579,954

Atty. ref. P03096US2A  
Page 5 of 6

## REMARKS

### Amendments

Claim 40 has been amended by including limitations previously found in claims 54 and 59, both now canceled, by specifying the types of repeat units present in the polymer chain,<sup>1</sup> and by further defining the nature of the cyclic compound involved in the reaction.

Claims 41-42 have been canceled, and claims 46 and 48-49 have been amended, to account for the aforescribed amendments to claim 40.

Entry of these amendments will result in claims 40, 43-53 and 55-58 pending in this application.<sup>2</sup>

### Rejections

The 10/12 Action rejected each of the previously pending claims under 35 U.S.C. § 103(a) as being obvious, specifically,

- claims 40-45, 47, and 54 -U.S. Patent No. 6,258,891 (hereinafter "US'891") in view of U.S. Patent No. 6,294,624 (hereinafter "US'624"), and
- claims 40-58 - US'891 in view of U.S. Patent No. 5,811,479 (hereinafter "US'479").

These rejections are respectfully traversed.

The extensive prosecution that has occurred in this application makes abundantly clear that the express and explicit teaching of US'891 either has not been understood or has been willfully misinterpreted. Non-limiting examples include

- citation to col. 4, line 28 of US'891 as an indication that solvent can be present during polymerization,<sup>3</sup>
- argumentation that the living polymerization of US'891 does not, by definition, exclude the presence of water and thus can be combined with US'624,<sup>4</sup>

<sup>1</sup> Support for this amendment can be at, for example, lines 12-31 of page 4 of the specification.

<sup>2</sup> This results in a total of 16 pending claims, only one of which is independent; accordingly, no additional claim fees should be due at this time.

<sup>3</sup> In the cited example, cyclohexane is used as a carrier for the cyclic siloxane functionalizing compound after completion of the ethylene polymerization.

<sup>4</sup> Any of a variety of undergraduate level chemistry textbooks can be cited for the need to exclude active hydrogen atom-containing compounds, such as water, from any living polymerization. The citation at page 5 of the 10/12 Action to the Ziegler-Natta (coordination) catalyst of US'624 as support of the examiner's position concerning anionic initiators is, depending on one's perspective, either comedic or tragic.

Amendment F  
U.S. appl. no. 10/579,954

Atty. ref. P03096US2A  
Page 6 of 6

- the mixed apples-and-oranges calculation at page 6 of the 10/12 Action to arrive at an embodiment that the US'891 patentees themselves exclude two paragraphs later,<sup>5</sup>
- etc.

In addition to the problems with the teaching of US'891, the 10/12 Action (at page 5) improperly substituted the examiner's belief regarding the teaching of US'479 for the un-rebutted declaration of Dr. David F. Lawson, provided as part of Applicant's 8 June 2009 submission.

Normally, Applicant would have been quite happy to proceed to appeal at this point. However, subsequent to Applicant's submission of 26 August 2010, the teaching of U.S. Patent No. 6,020,430 with respect to the size of the polysiloxane block was noted; in the various formulae,  $v$  is defined as low as 2, which would be more relevant to the weight limitation now present in claim 40 than the aforescribed teaching of US'891. In formula III" of the '430 patent, the polysiloxane block is directly bonded to a functional group (FG), discussed in more detail in the third paragraph of col. 17 of that reference.

Although this reference is cited on the face sheet of US'891 and, accordingly, may well have been considered already, Applicant did not wish to take any chance in this regard. Therefore, this amendment is accompanied by an information disclosure statement listing, inter alia, the '430 patent.

#### Conclusion

Applicant has voluntarily amended claim 40 to the minimum acceptable scope. Accordingly, the application is ready for allowance or appeal.

Questions concerning this submission should be directed to the undersigned. The correspondence address of record remains unchanged.

Respectfully submitted,



ZOLLINGER & BURLESON LTD.  
Post Office Box 2368  
Canton, Ohio 44720-0368

phone: 330/526-0104, x2  
facsimile: 866/311-9964

David G. Burleson  
Registration No. 38,090  
Attorney for Applicant

<sup>5</sup> Contrary to the assertion in the 10/12 Action, US'891 does not "provide[] two teachings on the amount of siloxane monomer present." Instead, US'891 provides a single teaching about the weight of the polysiloxane block while the examiner has created another from whole cloth by confusing the molten PE wax carrier with the living polyethylene chains.